

AMENDED IN SENATE JULY 13, 2009
AMENDED IN ASSEMBLY MAY 29, 2009
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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 135

Introduced by Assembly Member Jeffries

January 20, 2009

An act to amend Sections 4464, 4475, 4475.5, 4799.04, and 4799.12 of the Public Resources Code, relating to public resources, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 135, as amended, Jeffries. Public resources: forest protection: urban forestry: cost sharing.

(1) Existing law, the Wildland Fire Protection Management Act of 1978, authorizes the Director of Forestry and Fire Protection to enter into contracts, with the approval of the Director of General Services, for prescribed burning or other hazardous fuel reduction with the owner or any person who has legal control of any property or any public agency with regulatory or natural resource management authority over certain lands. The act authorizes the state to assume a proportionate share of the costs of site preparation and prescribed burning or other hazardous fuel reduction.

This bill would change the term “contract” to “agreement” and would delete the requirement of approval by the Director of General Services. The bill would also authorize the director to accept grants and donations

of equipment, materials, or funds from any source for the purpose of supporting or facilitating the prescribed burning or other hazardous fuels reduction work. The director would be authorized to waive the cost sharing requirements of the act where the funding source prohibits cost sharing requirements.

(2) Existing law authorizes the Department of Forestry and Fire Protection to enter into agreements and make loans to encourage private and public investment in, and improved management of, forest lands and resources within the state to ensure adequate future high-quality timber supplies, related employment and other economic benefits, and the protection, maintenance, and enhancement of a productive and stable forest resource system for the benefit of present and future generations. The Director of Forestry and Fire Protection is authorized to enter into agreements for forest resource improvement work with eligible landowners that require cost sharing on the part of the landowner and is required to deposit into the Forest Resource Improvement Fund funds from any source for forest resource improvement purposes.

This bill would allow the department to waive the cost sharing requirement when the funding source for the authorized forest resource improvement work prohibits cost sharing requirements. The bill would ~~delete the requirement that~~ *exempt funds received pursuant to the federal American Recovery and Reinvestment Act of 2009 from a requirement that those funds be deposited into the Forest Resources Improvement Fund.*

(3) Existing law, the California Urban Forestry Act of 1978, authorizes the Department of Forestry and Fire Protection to implement a program in urban forestry to, among other things, encourage better management and planting of trees in urban areas and assist cities in innovative solutions to problems, including greenhouse gas emissions, urban heat island effect, stormwater management, lack of green space, and vandalism. The director, with advice from other appropriate state agencies and interested parties, is authorized to make grants to provide assistance of 25 to 90% of costs for projects meeting guidelines established by the State Board of Forestry and Fire Protection, upon recommendation by the director.

This bill would allow the director to waive the cost sharing requirement when the funding source for a grant prohibits cost sharing requirements.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4464 of the Public Resources Code is
2 amended to read:
3 4464. Unless the context clearly requires otherwise, the
4 following definitions govern the construction of this chapter:
5 (a) “Hazardous fuel reduction” means the application of
6 practices to wild lands, the primary impact of which to the
7 vegetation is generally limited to the reduction of surface and
8 ladder wild land fuels. These practices include, but are not limited
9 to, prescribed fire, piling by machine or by hand in preparation for
10 burning, thinning, pruning, or grazing. Treatments that reduce
11 crown densities shall be prescribed only for the purpose of
12 impacting fire behavior, and where it can be reasonably concluded,
13 based on the proposed treatment, that the likelihood for the
14 formation of crown fires is reduced.
15 (b) “Nonprofit organization” means any California corporation
16 organized under Section 501(c)(3) or 501(c)(4) of the federal
17 Internal Revenue Code.
18 (c) “Person” means any natural person, firm, association,
19 partnership, business trust, corporation, limited liability company,
20 company, nonprofit organization, or a combination of those, or
21 any public agency other than an agency of the federal government.
22 (d) “Prescribed burn crew” means personnel and firefighting
23 equipment of the department that are prepared to contain fire set
24 in a prescribed burning operation and to suppress any fire that
25 escapes during a prescribed burning operation.
26 (e) “Prescribed burning” or “prescribed burning operation”
27 means the planned application and confinement of fire to wild land
28 fuels on lands selected in advance of that application to achieve
29 any of the following objectives:
30 (1) Prevention of high-intensity wild land fires through reduction
31 of the volume and continuity of wild land fuels.
32 (2) Watershed management.
33 (3) Range improvement.
34 (4) Vegetation management.
35 (5) Forest improvement.

1 (6) Wildlife habitat improvement.

2 (7) Air quality maintenance.

3 (f) “Wild land” means any land that is classified as a state
4 responsibility area pursuant to Article 3 (commencing with Section
5 4125) of Chapter 1 and includes any land having a flammable plant
6 cover. “Wild land” also means any land not classified as a state
7 responsibility area where the geographic location of these lands
8 and accumulation of wild land fuel is such that a wild land fire
9 occurring on these lands would pose a threat to a state
10 responsibility area.

11 (g) “Wild land fire” means any uncontrolled fire burning on
12 wild land.

13 (h) “Wild land fuel” means any timber, brush, grass, or other
14 flammable vegetation, living or dead, standing or down.

15 SEC. 2. Section 4475 of the Public Resources Code is amended
16 to read:

17 4475. The director may enter into an agreement, including a
18 grant agreement, for prescribed burning or other hazardous fuel
19 reduction that is consistent with this chapter and the regulations
20 of the board with (1) the owner or any other person who has legal
21 control of any property or (2) any public agency with regulatory
22 or natural resource management authority over any property that
23 is included within any wild land for any of the following purposes,
24 or any combination of those purposes:

25 (a) Prevention of high-intensity wild land fires through reduction
26 of the volume and continuity of wild land fuels.

27 (b) Watershed management.

28 (c) Range improvement.

29 (d) Vegetation management.

30 (e) Forest improvement.

31 (f) Wildlife habitat improvement.

32 (g) Air quality maintenance.

33 No agreement may be entered into pursuant to this section unless
34 the director determines that the public benefits estimated to be
35 derived from the prescribed burning or other hazardous fuel
36 reduction pursuant to the agreement will be equal to or greater
37 than the foreseeable damage that could result from the prescribed
38 burning or other hazardous fuel reduction.

39 SEC. 3. Section 4475.5 of the Public Resources Code is
40 amended to read:

1 4475.5. (a) The state may assume a proportionate share of the
2 costs of site preparation and prescribed burning or other hazardous
3 fuel reduction conducted pursuant to this article on wild lands
4 other than wild lands under the jurisdiction of the federal
5 government. The state's share of those costs shall bear the same
6 ratio to the total costs of the operation as the public benefits bear
7 to all public and private benefits to be derived from the prescribed
8 burning operation or other hazardous fuel reduction, as estimated
9 and determined by the director. The state's share of the costs may
10 exceed 90 percent of the total costs of the operation only if the
11 director determines that no direct private economic benefits will
12 accrue or will be utilized by a person that owns or controls any
13 property under contract pursuant to Section 4475.

14 (b) The board shall adopt regulations establishing standards to
15 be used by the director in determining the state's share of these
16 costs and in determining whether, pursuant to Section 4475, the
17 public benefits of a prescribed burning operation or other hazardous
18 fuel reduction will equal or exceed the foreseeable damage
19 therefrom.

20 (c) The determination of public and private benefits pursuant
21 to this section shall reflect any substantial benefit to be derived
22 from accomplishing any of the purposes specified in Section 4475
23 and the prevention of degradation of air quality.

24 (d) All or part of these costs to be borne by the person
25 contracting with the department may be met by the value of
26 materials, services, or equipment furnished by that person directly,
27 or furnished by that person pursuant to an agreement with a private
28 consultant or contractor, or furnished by a combination of both
29 means, that are determined by the department to be suitable for
30 the preparation for, and the conduct of, the prescribed burning
31 operation or other hazardous fuel reduction.

32 (e) The director may accept grants and donations of equipment,
33 materials, or funds from any source for the purpose of supporting
34 or facilitating the prescribed burning or other hazardous fuels
35 reduction work undertaken pursuant to this chapter. The director
36 may waive the cost sharing requirements of this chapter when the
37 funding source prohibits cost sharing requirements.

38 SEC. 4. Section 4799.04 of the Public Resources Code is
39 amended to read:

1 4799.04. To effectuate the purposes of this chapter, the
2 department is authorized to:

3 (a) Collect or contract for adequate supplies of high-quality seed
4 and take whatever steps are necessary to ~~insure~~ *ensure* to the
5 maximum degree feasible that seeds or seedlings planted as part
6 of forest resource improvement projects undertaken pursuant to
7 this chapter are adapted to the planting site and measures are taken
8 to assure appropriate diversity of forest species.

9 (b) Contract for seedling production and, in cooperation with
10 other state, local, and federal agencies, encourage the production
11 of seedlings needed to accomplish reforestation in the state by
12 small business entities in or near areas where planting will be
13 carried out.

14 (c) Provide technical assistance to private seedling nurseries
15 and conduct a program for certification of the quality and
16 adaptability of seeds and tree seedlings supplied for forest resource
17 improvement projects undertaken pursuant to this chapter.

18 (d) Increase availability of genetically improved seed and
19 planting stock by expansion of seed orchards or other recognized
20 tree improvement techniques.

21 (e) In cooperation with other public and private entities or
22 persons:

23 (1) Conduct necessary research and take other appropriate
24 measures to protect the genetic integrity and diversity of forest
25 tree species, including, but not limited to, a seed depository.

26 (2) Conduct research and make grants or enter into contracts or
27 cooperative agreements with public and private entities or persons
28 concerning measures to increase the contribution of trees to
29 improve the natural environment and economy of the state and
30 measures to otherwise accomplish the purposes of this chapter.

31 (f) Purchase necessary equipment or materials and, in
32 accordance with the State Civil Service Act (commencing with
33 Section 18570 of the Government Code), appoint such deputies,
34 officers, and other employees as may be necessary.

35 (g) In cooperation with other public and private entities and
36 persons, establish such training and educational programs as may
37 be appropriate to increase the number of workers with necessary
38 skills to carry out seed collection, seedling production, and forest
39 resource improvement projects.

1 (h) To accept grants and donations of equipment, seedlings,
2 materials, or funds from any source for the purpose of supporting
3 or facilitating forest resource improvement work undertaken
4 pursuant to the provisions of this chapter. *Any funds received,*
5 *except funds received pursuant to the federal American Recovery*
6 *and Reinvestment Act of 2009 (Public Law 111-5), shall be*
7 *deposited by the director in the Forest Resource Improvement*
8 *Fund established pursuant to Chapter 3 (commencing with Section*
9 *4799.13) of this part.*

10 (i) Waive the landowner cost sharing requirements of this
11 chapter when the funding source for the authorized forest resource
12 improvement work prohibits cost sharing requirements.

13 SEC. 5. Section 4799.12 of the Public Resources Code is
14 amended to read:

15 4799.12. The director, with advice from other appropriate state
16 agencies and interested parties, may make grants to provide
17 assistance of 25 to 90 percent of costs for projects meeting
18 guidelines established by the board upon recommendation by the
19 director. The director may waive the cost sharing requirement for
20 projects that are in disadvantaged and severely disadvantaged
21 communities. The director may also waive the cost sharing
22 requirement when the funding source for a grant prohibits cost
23 sharing requirements. Grants may be made to cities, counties,
24 districts, and nonprofit organizations. Contributions required as a
25 condition of grants made pursuant to this section may be made in
26 the form of material, services, or equipment, or funds. Authorized
27 assistance may include, but is not limited to, any of the following
28 needs:

29 (a) Funding for development of urban tree plans that include
30 coordination of local agency efforts and citizen involvement.

31 (b) Funding for development of urban tree plans that include
32 coordination of multiple jurisdictions, multiple agency efforts, and
33 citizen involvement.

34 (c) Funding for development of urban forest master plans or
35 similar plans designed to provide comprehensive protection,
36 maintenance, and management of the urban forest.

37 (d) Provision of seedling and tree stock.

38 (e) Tree planting projects.

39 (f) Funding and other assistance to local agencies and nonprofit
40 organizations for partnerships as follows:

1 (1) Energy saving urban forest programs similar to the Los
2 Angeles Department of Water and Power's Trees for Green LA
3 program and the Sacramento Municipal Utility District's
4 Sacramento Shade Tree program.

5 (2) Developing projects or programs that use urban forests for
6 water conservation, improving water quality, or stormwater capture.

7 (3) Developing projects or programs that use urban forests for
8 air quality improvement, reduction in greenhouse gas emissions,
9 or reduction of urban heat island effect.

10 (4) Developing community education and engagement programs
11 on the benefits and proper care of trees.

12 (g) Funding for the development of training and educational
13 materials on the benefits of the urban forest.

14 (h) Funding for the development of training and educational
15 materials on proper care and maintenance of trees and the urban
16 forest, including young and mature tree care.

17 (i) Funding and other assistance, based on criteria developed
18 by the department, for management of urban forests to ensure their
19 survival and ability to optimize the benefits that urban forests
20 provide the community and the environment.

21 (j) Funding and other assistance for demonstration projects in
22 urban forestry with special attention given to projects or programs
23 assisting the state in meeting the requirements of the Global
24 Warming Solutions Act of 2006 (Division 25.5 (commencing with
25 Section 38500) of the Health and Safety Code), improving energy
26 and water conservation, capturing and filtering urban stormwater,
27 improving water quality, reducing the urban heat island effect,
28 improving air quality, and wood and fiber utilization projects,
29 including, but not limited to, biofuel and bioenergy.

30 (k) Other categories of projects recommended by the director
31 and approved by the board.

32 SEC. 6. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety within
34 the meaning of Article IV of the Constitution and shall go into
35 immediate effect. The facts constituting the necessity are:

36 In order to receive and expend needed funds recently made
37 available by Congress as part of the federal American Recovery

- 1 and Reinvestment Act of 2009 as soon as possible, it is necessary
- 2 that this act take effect immediately.

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